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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/616,953	07/11/2003	Hiroshi Okada	33812R0021	2153
441	7590	10/01/2004	EXAMINER	
SMITH, GAMBRELL & RUSSELL, LLP 1850 M STREET, N.W., SUITE 800 WASHINGTON, DC 20036			NGUYEN, KIM T	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,953

Applicant(s)

OKADA ET AL.

Examiner

Kim Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/603,963.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The amendment filed on June 9, 2004 has been received and considered. By this amendment, claims 3-22 have been added, and claims 1-22 are now pending in the application.

The indicated allowable claims 1-2 over prior arts have been withdrawn due to newly found reference of Matsuda et al (US. Patent No. 6,268,872). Claims 1-22 are rejected as following:

Duplicate Claims

1. Applicant is advised that should claims 1-8 be found allowable, claims 16-22 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Objections

2. Claims 1, 4-9, 12-17, and 19-22 are objected to because of the following informalities:

a) In claim 1, line 6; and claim 16, line 6, the claimed limitation "state parameter" should be corrected to "said state parameter".

b) In claim 1, line 15; and claim 16, line 15, the claimed limitation "state parameters meet" should be corrected to "state parameter meets".

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- c) In claim 4, lines 3-4; claim 11, lines 3-4; and claim 18, line 4, the claimed limitation “state parameters, which metamorphosis” should be corrected to “state parameter, which said metamorphosis”.
- d) In claim 5, lines 3 and 4; claim 6, line 2; claim 12, lines 3 and 4; claim 13, line 2; claim 19, lines 3 and 4; and claim 20, line 2, the claimed limitation “a virtual living thing” should be corrected to “the virtual living thing”.
- e) In claim 5, line 4; claim 12, line 4; and claim 19, line 4, the claimed limitation “state parameters” should be corrected to “state parameter”.
- f) In claim 5, line 6; claim 12, line 6; and claim 19, line 6, the claimed limitation “the data” should be corrected to “data”.
- g) In claim 7, line 4; claim 14, line 4; and claim 21, line 4, the claimed limitation “an operation by a player in response to an operation” should be corrected to “the operation by the player in response to the operation”.
- h) In claim 8, line 4; claim 15, line 4; and claim 22, line 4, the claimed limitation “state parameters meet” should be corrected to “said state parameter meets”.
- i) In claim 9, line 4, the claimed limitation “degree of care” should be corrected to “a degree of care”.
- j) In claim 9, line 6, the claimed limitation “a player” should be corrected to “the player”.
- k) In claim 9, line 8, the claimed limitation “the degree” should be corrected to “a degree”.
- l) In claim 9, line 12, the claimed limitation “the operation” should be corrected to “operation”.

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- m) In claim 9, line 16, the claimed limitation “parameter~~s~~” should be corrected to “parameter”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5-7, 12-14, and 19-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a) In claim 5, line 7, the claimed limitation “sent back” is ambiguous. It is not clear if the “data on the virtual living thing” in claim 5, line 3, is sent back, or the “the converted data” in claim 5, line 6, is sent back.
- b) In claim 7, line 5, the claimed limitation “calculates” is ambiguous. It is not clear which elements to be calculated?
- c) Claims 12 and 19 are similarly rejected as explained in claim 5, section 4a) above.
- d) Claims 14 and 21 are similarly rejected as explained in claim 7, section 4b) above.
- e) Claims 6, 13, and 20 are rejected as being dependent on the rejected base claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuda et al (US. Patent No. 6,268,872).

a. As per claim 1 and 4, Matsuda discloses a rearing simulation apparatus which comprises state parameter processing means for increasing and decreasing the state parameter based on variables fluctuation in connection with the state parameters responsive to a request by a player, and for increasing and decreasing "care" parameter which represents a degree of care according to the completeness of an operation requested by a player (col. 11, lines 13-20). Further, Matsuda discloses increasing and decreasing a character parameter based on care parameter and a basic value of a category (col. 12, lines 2-4; and col. 13, lines 1-11); operation request display means for display the operation request for a player (col. 10, lines 54-67); rearing stage processing means for metamorphosing a virtual living thing to the next rearing stage according to the state parameters (col. 4, lines 19-27; and col. 12, lines 35-47), the metamorphosis requirements are connected with the category at the present rearing stage (Fig. 13); and rearing stage display means which displays the state parameter designated by the request operation (col. 3, lines 29-31). Matsuda does not explicitly disclose an operation request processing means which carries out an operation request which are influenced by the character parameter when the state

parameter meets predetermined requirements. However, Matsuda discloses a known prior art which teaches carrying out an operation request which is influenced by the character parameter (col. 12, lines 1-4; and col. 11, lines 13-20) when the state parameter meets predetermined requirements (col. 2, lines 16-26). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a known operation request means for carrying out an operation request to the apparatus of Matsuda in order to rear a virtual living thing according to the growing needs of the virtual living thing.

b. As per claim 2-3, Matsuda discloses including increasing and decreasing "care" parameter which represents a degree of care according to the completeness of an operation requested by a player (col. 11, lines 13-20). Further, Matsuda discloses increasing and decreasing a character parameter based on care parameter and a basic value of a category (col. 12, lines 2-4; and col. 13, lines 1-11). Further, refer to discussion in claim 1 above for the claimed operation request processing means B. Further, Matsuda discloses carrying out an operation request which is influenced by the character parameter (col. 12, lines 1-4; and col. 11, lines 13-20). Further, as to claim 3, Matsuda discloses metamorphosing the virtual living thing based on the "care" parameter (col. 11, lines 13-20; and col. 12, lines 1-4); Further, Matsuda discloses a rearing stage processing means which selects a category based on the requirement of the metamorphosis parameter and a metamorphosis reference value to the category of the present rearing stage (col. 10, lines 24-33; and col. 12, lines 39-47).

c. As per claim 5-6, Matsuda discloses including a living thing data transmitting and receiving means which transmits and receives data via a communication network (col. 3, lines

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60-67; and Fig. 6). The data on the virtual living thing includes the stage parameters and the category data (col. 10, lines 21-23; and col. 12, lines 39-41). Further, using user identification for identifying the user apparatus, and associating address to each data set stored in a memory for retrieving a required data set would have been well known to a person of ordinary skill in the art at the time the invention was made.

d. As per claim 7, refer to discussion in claim 1 above. Further, Matsuda discloses calculating metamorphosis parameter based on the care parameter to metamorphose the virtual living thing (Fig. 13; col. 11, lines 12-20; and col. 12, lines 1-4).

e. As per claim 8, Matsuda does not disclose selecting a veiled category. However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to select a veiled category in order to influence the metamorphosis when the state care parameter satisfies the veiled category.

f. As per claim 9-22, refer to discussion in claims 1-8 above.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (703) 308-7915. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET. The central official fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

kn

Date: September 30, 2004


KIM NGUYEN
PRIMARY EXAMINER